



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**RESUBMISSION OF RESPONSE TO THE FINAL REJECTION DATED
AUGUST 29, 2003 AND INFORMATION DISCLOSURE STATEMENT**

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#13 IRS
2/26/04

APPLICANTS: Bennarsten et al. GROUP ART UNIT: 3761
SERIAL NO.: 09/733,064 EXAMINER: M. Mendoza
FILED: December 11, 2000 CONFIRMATION NO.: 2760
TITLE: "A HIGH FREQUENCY OSCILLATOR VENTILATOR"

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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

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S I R:

By Certificate Of Mailing dated November 25, 2003, Applicants submitted a Response to the Final Rejection dated August 28, 2003, and an Information Disclosure Statement with references and Form 1449. A copy of the stamped return postcard indicating receipt of those documents at the Patent and Trademark Office on November 28, 2003, and a copy of the cancelled check that accompanied the filing of the Information Disclosure Statement, proving processing of that check by the Patent and Trademark Office, are attached hereto as proof of receipt of those originally filed documents at the Patent and Trademark Office.

After several follow-up telephone calls to the Examiner subsequent to the filing of these papers, with no action from the Examiner having been received, the Examiner informed the undersigned counsel for the Applicants on February 18, 2004 that these papers were not present in the Patent and Trademark Office file.

Accordingly, copies of the above documents are being resubmitted, together with the aforementioned proof of receipt of the original documents at the Patent and Trademark Office. Immediate consideration thereof is respectfully requested, since the end of the six-month period for response is approaching.

Submitted by,

Steven H. Noll (Reg. 28,982)

SCHIFF, HARDIN & WAITE

CUSTOMER NO. 26574

Patent Department

6600 Sears Tower

233 South Wacker Drive

Chicago, Illinois 60606

Telephone: 312/258-5790

Attorneys for Applicants.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on February 19, 2004.

Steven H. Noll

STEVEN H. NOLL

ION. COMMISSIONER OF PATENTS
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450

SIR:

PLEASE APPLY A RECEIPT STAMP HERETO AND MAIL TO
ACKNOWLEDGE RECEIPT OF THE ATTACHED TRADEMARK
RESPONSE TO THE FINAL REJECTION
DATED AUGUST 29, 2003 AND IDS WITH
REFS AND FORM 1449

Bennarsten et al.



R ✓

APPLICANT	TYPE OF DOCUMENT(S)
November 25, 2003	USSN 09/733,064 P00,1832
MAILING DATE	REFERENCE NUMBER
	November 29, 2003 30566-0008 SHN

\$180.00

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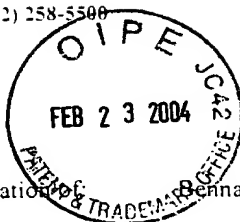
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PATENT DEPARTMENT

6600 SEARS TOWER

233 SOUTH WACKER DRIVE

CHICAGO, ILLINOIS 60606

GROUP ART UNIT: 3761

In re application of Schmarsten et al.

SERIAL NO.: 09/733,064

EXAMINER: M. Mendoza

FILED: December 11, 2000

CONFIRMATION NO.: 2760

TITLE: "A HIGH FREQUENCY OSCILLATOR VENTILATOR"

RESPONSE TO THE FINAL REJECTION DATED AUGUST 29, 2003

Assistant Commissioner for Patents

Washington D.C. 20231

SIR:

Transmitted herewith is an amendment in the above-identified application.

☒ No additional fee is required.

The fee has been calculated as shown below.

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CLAIMS AS AMENDED							
	(2) CLAIMS REMAINING AFTER AMENDMENT		(4) HIGHEST NO. PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEE	
TOTAL CLAIMS	*	MINUS	**	X	() X 9.00 () X 18.00		
INDEP. CLAIMS	*	MINUS		X	() X 40.00 () X 84.00		
Application amended to contain any multiple dependent claims not previously paid for.				() YES () NO	() \$140.00 () \$280.00 ONE TIME		
				TOTAL ADDITIONAL FEE FOR THIS AMENDMENT		50.00	

* If the entry in Column 2 is less than the entry in Column 4, write "0" in Column 5.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20 write "20" in this space.

- ☐ Applicants petition the Commissioner of Patents and Trademarks to extend this time for response to the Office Action dated _____ for _____ months so that the period for response is extended to _____. A check in the amount of \$_____ is attached to cover the cost of the extension. Any deficiency or overpayment should be charged or credited to deposit account No. 501519. A duplicate copy of this sheet is enclosed.
- ☐ A check in the amount of \$_____ is attached.
- ☐ A check for \$_____ accompanying IDS under 37 CFR 1.97(c) is attached.
- ☐ A check for \$_____ and Petition for Consideration of IDS under 37 CFR 1.97(d) is attached.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or to credit any overpayment to account No. 501519. A duplicate of this sheet is enclosed.
- When phoning re this application, please call (312) 258-5500.

SCHIFF HARDIN & WAITE (Customer Number: 26574)

Patent Department

BY Steven H. Noll (28,982)

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on November 25, 2003

Steven H. Noll

NAME OF APPLICANT'S ATTORNEY

Steven H. Noll

SIGNATURE

November 25, 2003

DATE



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
RESPONSE TO THE FINAL REJECTION DATED AUGUST 29, 2003

APPLICANTS: Bennarsten et al. GROUP ART UNIT: 3761
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Applicants and their counsel have carefully reviewed the final rejection dated August 29, 2003, but believe the claims in their present form are patentable over the teachings of the reference relied upon by the Examiner. Reconsideration of the application in view of the following arguments in support of patentability is therefore respectfully requested.

REMARKS

In the Office Action dated August 29, 2003, claims 1-7 were rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 5,453,951. This rejection was discussed in an interview courteously afforded the undersigned counsel for the Applicants on November 20, 2003, at which the Examiner's supervisor also was present. In view of the arguments discussed at the interview, the Examiner and his supervisor stated that it appeared that continued reliance on the '951 patent as a basis for anticipating claims 1-7 would not be justified, however, the Examiner stated he would reserve making a final judgment upon receipt of a written response.